

CRAIG MACK §
v. § CIVIL ACTION NO. 6:15cv958
DIRECTOR, TDCJ-CID §

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After review of the pleadings, the Magistrate Judge issued a Report recommending that Mack's petition be dismissed because Mack failed to show the deprivation of a constitutionally protected liberty interest, as set out in Sandin v. Conner, 515 U.S. 472, 484, 115 S.Ct. 2293, 132 L.Ed.2d 418 (1995). In his objections, Mack argued that he was denied due process because he was denied the right to have an impartial witness represent him [sic], his counsel substitute works for TDCJ and was therefore prejudiced against him, prisoners with psychiatric problems must have their disciplinary cases cleared by the mental health department, the disciplinary cases were fabricated, his First Amendment rights were violated, and he was denied access to court.

Mack does not discuss the lack of a cognizable liberty interest which formed the basis of the Magistrate Judge's Report. He cites Wolff v. McDonnell, 418 U.S. 539, 566, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974), but the due process requirements of Wolff are applicable where a liberty interest is at stake, which is not the case here. Sandin, 515 U.S. at 484; *see also* Madison v. Parker, 104 F.3d 765, 767 (5th Cir. 1997) (punishments such as cell and commissary restrictions which do not implicate liberty interests do not raise due process concerns); Hayes v. Quarterman, civil action no. 4:08cv2501, 2009 U.S. Dist. LEXIS 57871 (S.D.Tex., July 7, 2009) (the due process requirements of Wolff only apply when the punishment imposed affects the length of the inmate's sentence or represents an atypical and significant hardship in relation to the ordinary incidents of prison life). Mack has not shown that the Magistrate Judge's Report was in error.

The Court has conducted a careful *de novo* review of those portions of the Magistrate Judge's proposed findings and recommendations to which the Plaintiff objected. *See* 28 U.S.C. §636(b)(1) (district judge shall "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.") Upon such *de novo* review, the Court has determined that the Report of the Magistrate Judge is correct and the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Petitioner's objections are overruled and the Report of the Magistrate Judge (docket no. 7) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus is **DISMISSED WITH PREJUDICE**. It is further

ORDERED that the Petitioner Craig Mack is **DENIED** a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

SIGNED this 21st day of December, 2015.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE